

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLES P. FARRIS, JR.,)	
)	CIVIL ACTION NO. 0:08-210-HMH-BM
Petitioner,)	
)	
v.)	
)	
STATE OF SOUTH CAROLINA)	REPORT AND RECOMMENDATION
PARDON, PAROLE AND PROBATION,)	
GREENVILLE DISTRICT,)	
)	
)	
Respondent.)	
_____)	

This is a pro se Petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 on January 23, 2008. Respondent filed its answer and return and memorandum on April 23, 2008, and thereafter filed a motion for summary judgment on May 22, 2008. The Petitioner has now filed a motion on June 20, 2008 seeking a voluntary dismissal of this action, without prejudice, pursuant to Rule 41, Fed.R.Civ.P.¹ See Rule 11, Rules Governing § 2254 cases [Applying Federal Rules of Civil Procedure to habeas cases]; Rule 1, Rules Governing § 2254 cases [Making § 2254 rules applicable to cases filed under § 2241].

¹ This case was automatically referred to the undersigned United States Magistrate Judge for all pretrial proceedings pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 19.02(B)(2)(d) and (e), D.S.C. The Petitioner has filed a motion for voluntary dismissal. As whether or not to dismiss this case is dispositive, this report and recommendation is entered for review by the court.



Pursuant to Rule 41(a)(2), unless a stipulation of dismissal signed by all the parties is submitted, an action shall not be dismissed in a case in which a responsive pleading has been filed except upon order of the Court and upon such terms and conditions as the Court deems proper. Petitioner has advised the Court that he wishes to voluntarily dismiss this case. As the Petitioner is proceeding pro se, and pro se litigants are traditionally treated with some degree of leniency by the Federal Courts, see Cruz v. Beto, 405 U.S. 319 (1972) and related cases, and as Respondent has no objection to the dismissal of this case, it is recommended that this case be dismissed without prejudice pursuant to Rule 41(a)(2), Fed.R.Civ.P.

The parties are referred to the Notice Page attached hereto.



Bristow Marchant
United States Magistrate Judge

Columbia, South Carolina

June 23, 2008

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).